

## Zoning Commission Minutes

September 26, 2013  
3:00 pm

Chairman Russ Hoff called the meeting of the Stark County Zoning Commission to order. Chairman Hoff, Klayton Oltmanns, Sue Larsen, Kurt Froelich, Duane Grundhauser and Jay Elkin present and absent were Larry Messer, and Gene Jackson. Also present were Planner Steve Josephson, States Attorney Tom Henning, Tax Director Diane Brines, and Nicole Roberts.

Kurt Froelich moved to approve the minutes with a correction from the August 29, 2013 meeting of removing the staff recommendations regarding the request of Stu Stiles and Jim Hereford. Klayton Oltmanns seconded. All voted Aye and motion carried.

Mitch Erdle requested a Preliminary Plat of the Antelope Subdivision located in the NW4 of Section 17, Township 139, Range 91 containing 133.94 acres. Jeremy Wood represented Mitch Erdle. Discussion was held regarding the now unimproved road. The road will be the developer's responsibility and needs to meet the Stark County Road Policy.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of the Preliminary Plat of the Antelope Subdivision subject to the conditions and following the staff recommendations for Mitch Erdle.

Sue Larsen seconded. Roll call vote. All voted Aye and the motion carried.

**STAFF RECOMMENDATION:** Approval of the preliminary plat subject to the following conditions:

1. The developer's name and address shall be shown on the final plat;
2. The date the site plan was created shall be shown on the final plat;
3. The zoning district of the subdivision shall be shown on the final plat;
4. National Flood Insurance Program information shall show on the final plat;
5. Access for Lots 1 through 4 to 83<sup>rd</sup> Avenue Southwest shall be achieved through shared access as determined by the County Road Superintendent.; and
6. Prior to the issuance of building permits for Lots 6 through 9, 38<sup>th</sup> Street Southwest shall be improved to county road standards as determined by the Stark County Road Superintendent.

Carlton LaBeff requested a Preliminary Plat of the Thomas Petroleum Subdivision located in the NE4 of Section 10, Township 139, Range 97 containing approximately 154 acres. Chairman Hoff asked for anyone to speak for or against the Preliminary Plat. Duane Schwab and Shawn Sorhen spoke for the approval of the Preliminary Plat. Planner Steve Josephson voiced his concerns on the lack of interior road design.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of the Preliminary Plat of the Thomas Petroleum Subdivision with conditions of turning lanes off of Highway 10 and 116<sup>th</sup> Ave.

Klayton Oltmanns seconded. All voted Aye and motion carried.

Staff voiced concerns on the interior road connectivity.

Chairman Hoff opened the public hearing for Jason and Natasha Bird. The request was for a zoning change from Agriculture to Rural Residential on a parcel located in SE4 of Section 26,

Township 138, Range 98 containing 5.22 acres. Chairman Hoff asked anyone to speak for or against the proposed amendment. Chairman Hoff closed the public hearing.

Duane Grundhauser moved to recommend to the Stark County Board of Commissioners the approval of a zoning change from Agricultural to Rural Residential following the staff recommendations for Jason and Natasha Bird.

Sue Larsen seconded. Roll call vote. All voted Aye and the motion carried.

**STAFF RECOMMENDATION:** Approval of the proposed rezoning based upon the following finding:

- The proposed rezoning is consistent with the development pattern in the vicinity.
- The request is consistent with the following objectives of the Stark County Comprehensive Plan:
  - LAND USE-Strive to protect the agricultural integrity of rural areas; and
  - LAND USE-Avoid conflicts between land uses.

Chairman Hoff opened the public hearing for Dennis and Barb Dohrman. The request was for a zoning change from Agriculture to Rural Residential on a parcel located in the SE4 of Section 18, Township 139, Range 93 containing approximately 5.00 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of a zoning change from Agricultural to Agricultural Residential following the staff recommendations for Dennis and Barb Dohrman.

Klayton Oltmanns seconded. All voted Aye and motion carried

**STAFF RECOMMENDATION:** Approval of the proposed rezoning based upon the following finding:

- The proposed rezoning is consistent with the development pattern in the vicinity.
- The request is consistent with the following objectives of the Stark County Comprehensive Plan:
  - LAND USE-Strive to protect the agricultural integrity of rural areas; and
  - LAND USE-Avoid conflicts between land uses.

Chairman Hoff opened the public hearing for Derrick Symionow. The request was for a zoning change from Agriculture to Rural Residential in Lots 3 and 4 of Section 18, Township 140, Range 95 containing approximately 5.00 acres. Susan Symionow represented Derrick Symionow. Chairman Hoff asked for anyone to speak for or against the zoning change. Renee Polensky, Laura Tooz, Tracey Hoff all voiced concerns on the road and lack of water. Road Superintendent Al Heiser voiced his concerns on the road and not being able to build it to county standards. Chairman Hoff closed the public hearing.

Sue Larsen moved to recommend to the Stark County Board of Commissioners the denial for a zoning change from Agriculture to Rural Residential.

Jay Elkin seconded. Roll call vote. All voted Aye and the motion carried.

Chairman Hoff opened the public hearing for Mitch Feininger. The request was for zoning change from Agricultural to Agricultural Residential on a parcel located in the NW4 of Section 25, Township 139, Range 96 containing approximately 20 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of a zoning change from Agricultural to Agricultural Residential following the staff recommendations for Mitch Feininger.

Duane Grundhauser seconded. Roll call vote. All voted Aye and the motion carried.

**STAFF RECOMMENDATION:** Approval of the proposed rezoning based upon the following finding:

- The proposed rezoning is consistent with the development pattern in the vicinity.
- The request is consistent with the following objectives of the Stark County Comprehensive Plan:
  - LAND USE-Strive to protect the agricultural integrity of rural areas; and
  - LAND USE-Avoid conflicts between land uses.

Tricon Industrial Development requested a Planned Unit Development Overlay District on a parcel zoned Industrial located in the NW 4 of Section 11, Township 139, Range 97 containing approximately 161 acres. Chairman Hoff asked for anyone to speak for or against the Planned Unit Development Overlay District. Road Superintendent Al Heiser reported there is not a road issue other than he wants the approaches to line up on Highway 10 and 116<sup>th</sup> Ave. Chairman Hoff closed the public hearing.

Sue Larsen moved to recommend to the Stark County Board of Commissioners the approval of the Planned Unit Development Overlay District following the staff recommendations for Tricon Industrial Development.

Klayton Oltmanns seconded. All voted Aye and motion carried.

**STAFF RECOMMENDATION: Approval of the proposed conditional use based upon the following findings:**

1. The adoption of a planned unit development should limit impacts of commercial and industrial uses upon the existing agricultural and residential uses in the vicinity; and
2. Development of the subject property shall be limited through the inclusion of the following conditions.
  - a. **The Planned Unit Development shall be in substantial conformance at all times with the file materials received on September 24, 2013.**
  - b. **The uses on the northernmost 400 feet of the subject property which is designated as “Commercial” on the Land Use Plan dated September 3, 2013 shall be limited to the following uses:**
    - i. **Retail and service uses including, but not necessarily limited to, grocery, drugs, hardware, clothing, furniture stores, bakeries,**

restaurants, taverns, liquors stores, athletic and health clubs, automobile service station, used and new car lots, print shops, barber and beauty shop and sale and service of appliances; and  
ii. Dry cleaning, pressing, tailor shops and Laundromats.

- c. The uses on the remaining southern portion of the subject property which is designated as “Industrial” on the Land Use Plan dated September 3, 2013 shall be limited to the following uses:
  - i. Truck stop and associated parking. The truck stop shall be located on the western portion of the Industrial area;
  - ii. Truck or freight terminal;
  - iii. Rail switching and classification yards;
  - iv. Cement and ready mix facilities;
  - v. Rail yards and terminals;
  - vi. Machine shop;
  - vii. Dairy locker plants; and
  - viii. Fuel and bulk storage plants.
- d. Uses within 300 feet of the oil well wellhead shall be limited to parking and storage of non-flammable materials.
- e. The developer shall dedicate 75 feet of right-of-way along 116<sup>th</sup> Avenue SW.
- f. Access points serving the subject property shall be determined in accordance with Stark County regulations.
- g. All parking, roads and entrances to the property shall be paved.
- h. Opportunities for cross access to adjacent properties with similar uses and zoning shall be indicated on the required planned unit development transportation plan.
- i. A twenty foot buffer area shall be required between commercial development on the subject property and agriculturally/residentially zoned property. A thirty foot buffer shall be required between industrial development and agriculturally/residentially zoned property.
- j. Screening between the subject property and agricultural/residential zoning shall be required is one of the following conditions is directly visible from and faces toward the boundary of agriculturally/residentially zoned property:
  - i. The rear elevation of buildings.
  - ii. Outdoor storage areas or storage tanks, unless otherwise screened.
  - iii. Loading docks, refuse collection points, and other service areas.
  - iv. Major machinery or areas housing a manufacturing process.
  - v. Major on-site traffic circulation areas or truck and/or trailer parking.
  - vi. Sources of glare, noise, or other environmental effects.
- k. A six foot opaque barrier shall be provided which visually screens the conditions listed in Condition j. from less intensive uses as follows:

- i. A solid wood, vinyl and/or masonry fence or wall at least six feet in height;
  - ii. A landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting;
  - iii. A landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts; or
  - iv. A combination of these methods that achieves a cumulative height of six feet.
- l. The following actions will be required of the developer prior to obtaining building permits:
- i. the developer shall plat the subject property in accordance with the Stark County Subdivision regulations; and
  - ii. The County Engineer shall complete a site plan review to ensure that roads, storm water and other required infrastructure are adequate.
- m. Development of the subject property shall be performed in accordance with all applicable County, State and Federal rules and regulations.

The request is consistent with the following objectives of the Stark County Comprehensive Plan:

- ECONOMIC DEVELOPMENT-Strive for a well-rounded, stable economic foundation for the county.
- ECONOMIC DEVELOPMENT-Coordinate plans to ensure an adequate supply of industrial and commercial land in appropriate locations.
- LAND USE- Provide for proper growth management practices.
- LAND USE-Avoid conflicts between land uses.

Chairman Hoff opened the public hearing for Tricon Industrial Development. The request was for a Preliminary Plat of the TR I Subdivision located in the NW4 of Section 11, Township 139, Range 97 containing approximately 148.953 acres. Chairman Hoff asked for anyone to speak for or against the Preliminary Plat of the TR I Subdivision. Chairman Hoff asked for anyone to speak for or against the Preliminary Plat. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of the Preliminary Plat of the TR I Subdivision with additional staff recommendations.

Kurt Froelich seconded. All voted Aye and motion carried.

**STAFF RECOMMENDATION:** Approval of the preliminary plat, dated September 17, 2013, subject to the following conditions:

- 1. The property owner's name and address shall appear on the final plat; and
- 2. The final plat shall contain information regarding any floodplains and floodways on site as well as identifying the National Flood Insurance Program Flood Zones.

Chairman Hoff opened the public hearing for C.L. Thomas. The request was for a Conditional Use Permit to allow for a Fuel and Bulk Storage Facility in the NE4 of Section 10, Township 139, and Range 97 containing approximately 17.72 acres. Chairman Hoff asked for anyone to speak for or against the Conditional Use Permit. Carlton Labeff commented on the staff recommendations 2-c, 2-d, 2-h, 2-i. Gaylon Baker spoke for the conditional use permit but cautioned proposed condition of limiting the number of employees. Dale Burwick voiced his concerns on the farmsteads, families and the view. Jolene Griffin and Laura Griffin spoke for the conditional use permit. Tess Ehli voiced her concerns on the view. Tom Ehli voiced his concerns on how this conditional use permit conflicts with the new zoning code 5.6, 5.6.3. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of the Conditional Use Permit following the amended staff recommendations.

Klayton Oltmanns seconded. All voted Aye and motion carried.

**STAFF RECOMMENDATION:** Approval subject to the following conditions:

1. The adoption of a conditional use permit shall limit impacts of commercial and industrial uses upon the existing agricultural and residential uses in the vicinity; and
2. Development of the subject property shall be limited through the inclusion of the following conditions.
  - a. **Development shall be limited to an 815,200 gallon fuel and bulk storage plant with a maximum of 37 tanks.**
  - b. **The location of the fuel and bulk storage plant shall be as generally shown on the drawings distributed included with the Stark County Planning and Zoning Commission Memorandum dated September 6, 2013.**
  - c. **Prior to the issuance of a certificate of occupancy of any building, landscaping shall be installed and maintained by the property owner in accordance with a landscaping plan approved by the Zoning Administrator.**
  - d. **Maximum height for storage tanks 7 and 12-17, as indicated on the site plan, shall be 45 feet. The maximum height for all other storage tanks shall be as indicated on the site plan. Otherwise, all other development standards shall conform to the requirements of the Stark County Zoning Ordinance.**
  - e. **The developer shall be responsible for all maintenance associated with the fuel and bulk storage plant.**
  - f. **Access points serving the subject property shall be determined in accordance with Stark County regulations.**
  - g. **All parking, roads and entrances to the property shall be paved.**

- h. Off-street parking standards for the facility shall be 1 parking space per 5,000 square feet.**
- i. The following actions will be required of the developer prior to obtaining building permits:**
  - i. the developer shall plat the subject property in accordance with the Stark County Subdivision regulations; and**
  - ii. Stark County shall complete, at the developer's expense, site plan review of the proposed fuel and bulk storage facility. Site plan review will be performed by a licensed engineer of the County's choosing with an expertise in fuel and bulk storage and similar facilities, and the review will include, but not be limited to, spacing, fire control issues, spillage prevention, and other activities related to operation of the facility.**
- j. Any proposed change of the conditional use permit, including location of the facility, shall require a hearing before the Stark County Planning and Zoning Board and approval from the Stark County Commission.**
- k. The permit may be revoked by the County Commission anytime the applicant is in non-compliance with any of the conditions set by the Planning and Zoning Board or the County Commission for the issuance of the permit.**
- l. Development of the subject property shall be performed in accordance with all applicable County, State and Federal rules and regulations.**

The request is consistent with the following objectives of the Stark County Comprehensive Plan:

ECONOMIC DEVELOPMENT-Strive for a well-rounded, stable economic foundation for the county.

ECONOMIC DEVELOPMENT-Coordinate plans to ensure an adequate supply of industrial and commercial land in appropriate locations.

LAND USE- Provide for proper growth management practices.

LAND USE-Avoid conflicts between land uses.

Chairman Hoff opened the public hearing for Stu Stiles and Jim Hereford. The request was for a zoning change from Agriculture to Industrial with a Planned Unit Development Overlay on a parcel located north of the railroad in Section 1, Township 139, Range 99 and in the E2 of the E2 of Section 2, Township 139, Range 99 containing approximately 438.8 acres. Chairman Hoff asked for anyone to speak for or against the zoning change from Agriculture to Industrial with a Planned Unit Development Overlay. Lori Solberg, Stacey Buckman and Linda Weiss stated that their concerns from last month haven't changed and that none of the questions have been answered. Mary Hodell, Tammy Schumacher, Ed Buckman, Greg Buckman, Frank Hurt, Neil Tangen, Gordon Krance, voiced concerns on traffic safety. Eric Thompson voiced concerns about the consequences of the zoning change for the future. Rocky Solberg voiced his concerns on the PUD and changing of the plans. Janice Shafer KLJ is neither for or against advised on the strict FEMA regulations as this is in a flood zone. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the denial for a zoning change from Agriculture to Industrial with a Planned Unit Development Overlay.

Duane Grundhauser seconded. All voted Aye and motion carried.

**STAFF RECOMMENDATION: Denial based upon the following reasons:**

- 1. The proposed rezoning is not consistent with the zoning pattern in the vicinity of the site; and**
- 2. The proposed rezoning would allow uses that are generally not compatible with or comparable to the uses found in the general vicinity of the site.**

The request is not consistent with the following objectives of the Stark County Comprehensive Plan:

- ECONOMIC DEVELOPMENT-Strive for a well-rounded, stable economic foundation for the county.
  - ECONOMIC DEVELOPMENT-Preserve the importance of the agricultural sector of the county.
1. LAND USE-Strive to protect the agricultural integrity of rural areas; and
  2. LAND USE-Avoid conflicts between land uses.

The request is not consistent with the following policies of the Stark County Comprehensive plan:

1. LAND USE-Stark County supports protecting farming practices from contrasting interests of non-farm residents and businesses.
2. LAND USE-Stark County supports the prohibition of the approval of spot zoning except at established farmsteads or other sites which meet the county's requirements.
3. ECONOMIC DEVELOPMENT-Stark County supports the land use and zoning designation of an adequate supply of commercial and industrial land as needed to attract quality business and industrial development within the County. In particular this type of growth should be directed not only to areas adjacent to Dickinson but also to the rural business centers adjacent to the I-94 corridors surrounding Richardton and Belfield and the Highway 10 corridor between Dickinson and South Heart.

Chairman Hoff opened the public hearing for South Heart Rail Terminal, LLC. The request was for a zoning change from Agriculture to Industrial on a parcel located in the E2 of the NW4, Lots 1 and 2 of Section 7, Township 139, Range 98, in the NE4 of Section 7, Township 139, Range 98, in the SE4 of Section 7, Township 139, Range 98, in the SW4 of Section 7, Township 139, Range 98, and in the SE4 of Section 6, Township 139, Range 98 containing approximately 686.06 acres. Chairman Hoff asked for anyone to speak for or against the zoning change from Agriculture to Industrial. Mary Hodell, Wade Schaffer, Joshua Steffan, Laura Tangen, Fred Hurt, Neil Tangen, Lori Solberg, Eric Thompson, Stacey Buckman, Jim Bobb, and Gordon Krance all voiced concerns on traffic, safety and road side appeal. Ed Buckman voiced

his concerns on the oil industry declining and submitted a report. Chairman Hoff closed the public hearing.

Duane Grundhauser moved to recommend to the Stark County Board of Commissioners the denial for a zoning change from Agriculture to Industrial.

**STAFF RECOMMENDATION: Denial based upon the following reasons:**

- The proposed rezoning is not consistent with the zoning pattern in the vicinity of the site; and
- The proposed rezoning would allow uses that are generally not compatible with or comparable to the uses found in the general vicinity of the site.

The request is not consistent with the following objectives of the Stark County Comprehensive Plan:

- ECONOMIC DEVELOPMENT-Strive for a well-rounded, stable economic foundation for the county.
- ECONOMIC DEVELOPMENT-Preserve the importance of the agricultural sector of the county.
- LAND USE-Strive to protect the agricultural integrity of rural areas; and
- LAND USE-Avoid conflicts between land uses.

The request is not consistent with the following policies of the Stark County Comprehensive plan:

4. LAND USE-Stark County supports protecting farming practices from contrasting interests of non-farm residents and businesses.
5. ECONOMIC DEVELOPMENT-Stark County supports the land use and zoning designation of an adequate supply of commercial and industrial land as needed to attract quality business and industrial development within the County. In particular this type of growth should be directed not only to areas adjacent to Dickinson but also to the rural business centers adjacent to the I-94 corridors surrounding Richardton and Belfield and the Highway 10 corridor between Dickinson and South Heart.

Kurt Froelich seconded. All voted Aye and motion carried.

Klayton Oltmanns moved to adjourn. Kurt Froelich seconded.